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VIA ECF

Honorable Barbara Moses
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *Morgan Art Foundation Ltd. v. McKenzie*, 18-cv-04438-JLR-BCM
Letter-Brief for Consented-To Partial Relief from the Final Order and
Judgment (ECF No. 521)**

Dear Judge Moses:

We are writing to seek partial relief from the Final Order and Judgment, *see* ECF Nos. 521, 524, and Crossclaim-Plaintiffs Michael McKenzie and American Image Art (together “McKenzie”) consent to this relief.

Crossclaim-Defendant National S. Putnam, as Personal Representative of the Estate of Robert Indiana (“the Estate”), hereby submits this motion for relief from a certain provision of the Judgment (ECF No. 525). Crossclaim-Plaintiffs McKenzie consent to this motion. In support of this motion, the Estate states as follows:

1. In the Order Confirming Final Arbitration Award and Entering Final Order and Judgment, *see* ECF No. 521, Paragraph 2(6) of the Order provides, in relevant part:

It is ordered that, within thirty (30) days of the date of this Award [July 14, 2023], McKenzie and American Image Art shall release for delivery to UOVO Rockland County – Blauvelt, 100 Bradley Hill Road, Blauvelt, NY 10913 (“UOVO”) all Indiana Artwork . . .

ECF No. 521, at 3, ¶ 2(6),

2. In the past two weeks, it was discovered that the same storage company, UOVO, has a superior storage facility, UOVO Brooklyn, 105 Evergreen Avenue, Brooklyn, NY 11206 to UOVO’s facility in Rockland County.

3. Specifically, the UOVO Brooklyn facility has the following advantages over UOVO Rockland County:

- a. UOVO Brooklyn has both temperature control and climate control for the preservation of the Artwork while UOVO Rockland County just has temperature control.
- b. Under the Order and Judgment, there is a significant amount of appraisal work required, *see* ECF No. 521, at 3-4, ¶¶ 7, 8 and UOVO Brooklyn has a private room available for such work, while UOVO Rockland County does not.
- c. Finally, the UOVO Brooklyn facility is more convenient for the designated appraisers.

4. As noted above, counsel for McKenzie consent to this requested relief of having the Indiana Artwork stored at UOVO Brooklyn.

Accordingly, the Estate hereby requests partial relief from the Order Confirming Final Arbitration Award and Entering Final Order and Judgment, *see* ECF No. 521, and allow the Indiana Artwork to be stored at UOVO Brooklyn, 105 Evergreen Avenue, Brooklyn, NY 11206.

Sincerely,
/s/ Alfred J. Falzone
Alfred J. Falzone